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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE EASTERN DISTRICT OF CALIFORNIA

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14 UNITED STATES OF AMERICA,) NO. CR S-04-350-LKK
15 Plaintiff,)
16 v.) STIPULATION AND ORDER TO EXTEND
17 SOMSANOUK PHENGPHANH,) VOLUNTARY SURRENDER DATE
18 Defendant.)
19 _____)

20 It is hereby stipulated and agreed to between the United States of
21 America through Carolyn Delaney, Assistant U.S. Attorney, and the
22 defendant by and through his counsel, Mary French, Supervising
23 Assistant Federal Defender, that the surrender date of Tuesday,
24 September 12, 2006, be continued one week to Tuesday, September 19,
25 2006, no later than 2:00 p.m.

26 Mr. Phengphang was sentenced to 60 days incarceration on July 18,
27 2006. Judgment was entered on July 28, 2006. The Bureau of Prisons
28 designated Mr. Phengphang late in the day on August 14, 2006, after a

1 Stipulation and Order had already been signed extending his voluntary
2 surrender date to August 29, 2006 at 2:00 p.m.

3 On August 28, 2006, Mr. Phengphanh traveled from his home in
4 Stockton to the California City Correctional Institution in California
5 City, California, the facility where he had been designated. However,
6 when Mr. Phengphanh arrived at the California City Correctional
7 Institution, he was told that, based on his medical condition, his
8 designation had been "canceled" by the Bureau of Prisons and the
9 facility could not accept him. Although the Bureau of Prisons did in
10 fact "cancel" Mr. Phengphanh's initial designation, it forgot to inform
11 Mr. Phengphanh, the U.S. Marshal's Office, or defense counsel of the
12 change in designation plans. Based on these facts, it was stipulated
13 that Mr. Phengphanh's self-surrender date be extended two weeks, until
14 September 12, 2006.

15 On approximately September 6, 2006, defense counsel received a
16 message from the Marshal's Office that Mr. Phengphanh had been
17 designated to the Devens, Massachusetts federal medical facility to
18 serve his sentence of 60 days' incarceration; however, at that time the
19 Devens medical facility had no bed space for "dialysis patients." It
20 became apparent after several phone calls that the BOP was under the
21 mistaken impression that Mr. Phengphanh was still on dialysis thus
22 necessitating a designation to a federal medical facility that could
23 meet the needs of a dialysis patient.

24 Mr. Phengphanh's medical records were faxed to the medical
25 designation center on the East Coast, and several messages were left
26 with medical designation personnel, in the hope that the designation of
27 Devens, Massachusetts, could be changed to a facility in California

28 Stipulation and Order re
Voluntary Surrender Date

1 prior to Mr. Phengphanh's self-surrender date of September 12, 2006.
2 As of this date and time, Mr. Phengphanh's designation remains the
3 federal medical facility in Devens, Massachusetts.

4 It is anticipated that a one week extension will allow Mr.
5 Phengphanh to be re-designated to a federal correctional institution in
6 California, where he can self-surrender directly to the facility.
7 Again, because Mr. Phengphanh is a kidney transplant patient, and
8 requires on-going medical attention, it would be preferable for Mr.
9 Phengphanh to self-surrender directly to a designated Bureau of Prisons
10 facility in California where his medical needs can be attended to
11 immediately upon arrival.

12 The Office of the Federal Defender has been in contact with both
13 the U.S. Marshal's Office and United States Assistant Attorney Carolyn
14 Delaney, who have no objections to continuing this defendant's self-
15 surrender date for one more week.

16 Dated: September 11, 2006

17 Respectfully submitted,

18 DANIEL J. BRODERICK
Federal Defender

20 /s/ Mary M. French

21 MARY M. FRENCH
Assistant Federal Defender
22 Attorney for Defendant
SOMSANOUK PHENGPHANH

24 Dated: September 11, 2006

25 MCGREGOR W. SCOTT
United States Attorney

26 /s/ Mary M. French for
27 Carolyn Delaney

28 Stipulation and Order re
Voluntary Surrender Date

1 CAROLYN DELANEY
2 Assistant U.S. Attorney
3 per telephonic authorization
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5 ORDER
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7 IT IS SO ORDERED.
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9 Dated: September 11, 2006
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12 LAWRENCE K. KARLTON
13 SENIOR JUDGE
14 UNITED STATES DISTRICT COURT
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